

## REMARKS

This communication is in response to the non-final Office Action issued March 7, 2005. The Examiner rejected claims 1-3, 20, 21, 29, and 30 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter that the Applicants regard as the invention. The Examiner rejected claim 31 under 35 U.S.C. § 102 in view of U.S. Patent No. 5,713,801 to Aoyama (Aoyama). The Examiner rejected claims 4-6, 9-16, 29, 32, and 33 under 35 U.S.C. § 103 in view of varying combinations of Aoyama and U.S. Patent No. 6,001,930 to Rajagopalan (Rajagopalan). The Examiner indicated that claims 17, 18, and 22-28 were allowed, and claims 1-3, 20, 21, and 30 would be allowed if amended to overcome the rejection under 35 U.S.C. § 112, second paragraph.

### Claim Rejections Under 35 U.S.C. § 112, Second Paragraph

On page 2 of the Office Action, the Examiner rejected claims 1-3, 20, 21, 29, and 30 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter that the Applicants regard as the invention. Specifically, the Examiner cited the recitation of “another synthetic resin” as being indefinite.

The Applicants respectfully traverse the Examiner’s rejections. The Applicants initially note that while “another synthetic rubber” appears in the cited claims, “another synthetic resin” does not. Assuming the Examiner meant to cite “another synthetic rubber,” the Examiner’s attention is respectfully directed to the written description at page 8 line 19, page 10 lines 18-19, and page 18 line 9, where “another synthetic resin” appears expressly. Thus, there is support for the cited recitations. When read in context of the specification, a skilled artisan would know to which materials the Applicants are referring. As such, the claims are not indefinite, and the Applicants respectfully request that the rejections thereof be withdrawn.

In view of the foregoing, the Examiner's rejections under 35 U.S.C. § 112, second paragraph, of the claims are believed to be overcome.

Claim Rejections Under 35 U.S.C. § 102

On pages 2-3 of the Office Action, the Examiner rejected claim 31 under 35 U.S.C. § 102 in view of Aoyama.

Claim 31 has been canceled above, obviating the Examiner's rejection.

In view of the foregoing, the Examiner's rejections under 35 U.S.C. § 102 to the claims are believed to be overcome.

Claim Rejections Under 35 U.S.C. § 103

On pages 3-7 of the Office Action, the Examiner rejected claims 4-6, 9-16, 29, 32, and 33 under 35 U.S.C. § 103 in view of varying combinations of Aoyama and Rajagopalan. Specifically, the Examiner rejected claims 32 and 33 in view of Aoyama alone, and claims 4-6, 9-16, and 29 in view of Aoyama modified by Rajagopalan.

It is well settled that for a rejection of a claim under 35 U.S.C. § 103 to be proper, each and every recitation of the claim must be present in the cited reference(s). See, for example, MPEP § 2143.03. It is also well settled that for a rejection of a claim under 35 U.S.C. § 103 to be proper, there must be some suggestion or motivation to modify a reference or combine reference teachings. See, for example, MPEP § 2143.01. When so modifying a reference, the proposed modification cannot render the prior art unsatisfactory for its intended purpose or change the principle of operation of a reference. See, for example, MPEP § 2143.01. The modification must support a reasonable expectation of success with some degree of predictability. See, for example, MPEP § 2143.02. Finally, the source of the suggestion or motivation to modify a reference cannot be the Applicants' own disclosure. See, for example,

MPEP § 2143. For at least the reasons stated below, the Examiner's rejections of the claims do not satisfy these burdens.

Regarding claim 4, the claim has been amended above. The rejections of claim 4 and the claims dependent therefrom (5, 6, and 9-16) are believed to be overcome.

Regarding claim 29, the claim has been amended above. The rejection of claim 29 is believed to be overcome.

Regarding claims 32 and 33, the claims have been canceled above, obviating the Examiner's rejections.

In view of the foregoing, the Examiner's rejections under 35 U.S.C. § 103 to the claims are believed to be overcome.

#### Newly Added Claims

The Applicants have added new claims 34 and 35 above. The claims are similar to the prior versions of claims 4 and 29, respectively, but require the at least one intermediate layer to be of an ionomer material. No new matter is added by the inclusion of these claims.

#### Allowable and Non-Addressed Claims

On page 7 of the Office Action, the Examiner indicated that claims 17, 18, and 22-28 were allowed, and claims 1-3, 20, 21, and 30 would be allowed if amended to overcome the rejection under 35 U.S.C. § 112, second paragraph. The Applicants appreciate the Examiner's indication of allowable subject matter.

The Applicants note that the Examiner did not address claim 8 in the Office Action.

Additional Fees

The Commissioner is hereby authorized to charge any insufficiency or credit any overpayment associated with this application to Swidler Berlin LLP Deposit Account No. 19-5127 (order no. 20002.0227).

Conclusion

Claims 31-33 have been canceled, claims 4 and 29 have been amended, and claims 34 and 35 have been added. Claims 1-6, 8-18, 20-30, 34 and 34 are pending in the application, and are believed to be in condition for allowance. In view of the foregoing, all of the Examiner's rejections of the claims are believed to be overcome. The Applicants respectfully request reconsideration and issuance of a Notice of Allowance for all claims. Should the Examiner feel further communication would help prosecution, the Examiner is urged to call the undersigned at the telephone number provided below.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Sean P. O'Hanlon". The signature is fluid and cursive, with the first name "Sean" and last name "O'Hanlon" clearly distinguishable.

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